IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

FIRST APPEAL NO. 1106 OF 1999

Shri Appasaheb Bharmanath Khot. ... Appellant.

V/s.

State of Maharashtra & Anr. ... Respondents.

V.B.Rajure for the appellant.

Miss P.H.Kantharia, A.G.P. for the respondents.

CORAM : D.G.DESHPANDE, J.

DATED : 3rd February, 2005.

ORAL ORDER :

. Heard learned counsel for the appellant and learned A.G.P. for the State.

2. 1.16 hectare of land of of the appellant was acquired from village Kumbhoj. A notification under section 4 of the Land Acquisition Act was issued on 7th October, 1982. Before the Special Land Acquisition Officer (S.L.A.O.), appellant - claimant claimed Rs.60,000/- per hectare. However, S.L.A.O. granted Rs.19,000/- per h ecare. But, actually, the claimant claimed Rs.50,000/- per hectare before the reference Court. The reference application of the claimant was rejected by the Court. Hence this appeal.

3. Learned counsel for the appellant fairly contended that even if the case of the appellant

that he was raising sugarcane crops in the acquired land was rightly rejected by the Court, but there was no reason to it to reject the evidence of P.W.2 who has proved the sale-deed dated 16th April, 1982 i.e. about six months before the notification under section 4 of the Act. P.W.2 Shri Pardunyakumar Patil has staed that he purchased 51 ares of land from the village Kumbhoj for Rs.40,000/- per acre in 1982. This land was jirayat land and the rate rate comes to Rs.78,000/- per hectare. Learned counsel for the appellant contended that nothing is brought in the cross-examination either to disbelieve this witness or to disbelieve the sale-deed dated 16th April, 1982 which was proved as Exh.49. No reasoning has been given by the Court why this sale instance has not been rlied upon even though it was of the relevant period.

4. Learned A.G.P. tried to contend that the sale-deed at Exh.49 was considered and discussed by the Court. However, I find that the entire discussion is whetehr appellant was getting irrigation water for raising sugarcane crop in his field. The said point regarding sugarcane crop is not pressed by the counsel for the appellant. Therefore, the above disucussion by the trial Court is of no help to the respondents. The Court has not given any convincing and sound reasoning as to why the relevant sale-deed could not be relied upon.

5. I find considerable force in the submission of the counsel for the appellant. The sale-deed (Exh.49) is of relevant period and is proved by P.W.2. It was from the same village. The land of P.W.2 was Jirayati land and the land in question is also Jirayati land. The rate given by P.W.2 as vendor comes to Rs.78,000/- per hectare. Appellant had claimed Rs.60,000/- per hectare as against which Rs.19,000/- per hectare was granted by S.L.A.O. However, appellant has claimed only Rs.50,000/- per hectare in the land reference. Therefore, in the circumstances, the appeal is required to be allowed.

Hence I pass the following order:

O R D E R

. The appeal is allowed.

. The impugned order of rejection of reference is set aside. The appellant will be entitled to get compensation at the rate of Rs.50,000/- per hectare from the Government with interest at the rate of 9% per annum from the date of award till realisation and solatium as prescribed by the Court and also costs of the appeal.

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